

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN STEVE VICK**, on April 3, 2001 at 3:00 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Steve Vick, Chairman (R)
Rep. Dave Lewis, Vice Chairman (R)
Rep. Matt McCann, Vice Chairman (D)
Rep. John Brueggeman (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. Tim Callahan (D)
Rep. Edith Clark (R)
Rep. Bob Davies (R)
Rep. Stanley Fisher (R)
Rep. Dick Haines (R)
Rep. Joey Jayne (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. Jeff Pattison (R)
Rep. Art Peterson (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Paula Broadhurst, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: None.
Executive Action: SB 65, SB 386, SB 294, SB 131

EXECUTIVE ACTION ON SB 65

{Tape : 1; Side : A; Approx. Time Counter : 0}

Motion: REP. BUZZAS moved that SB 65 BE CONCURRED IN.

Motion: REP. PETERSON moved that AMENDMENTS SB 6515 PER PAGE 10, LINE 2 BE CONCURRED IN.

Discussion: Kathy Fabiano, explained the amendments. Chairman Vick asked about the fund for the tuition.

Bob Runkel, Director, Special Education, Office of Public Instruction (OPI), explained the fund is the line item appropriation in HB 2 that relates to making payments to in-state residential treatment facilities. There is language in HB 2 that gives authority to OPI to distribute any remaining appropriations to public schools for the purpose of day treatment.

Questions from Committee Members and Responses:

Rep. McCann asked the amount in the line item appropriation. **Bob Runkel** responded the biennial appropriation is approximately \$1,000,000. The funds left after payments have been made to the treatment centers averages about \$380,000 per year.

Rep. Callahan asked if the proposed changes relative to the cap would affect the fund. **Bob Runkel** responded not directly unless the legislature indicates that intent.

Rep. Callahan clarified if there is a cap placed on the amount of money expended per student, the difference would need to be made up by the district in which the child is placed and not the sending district. **Bob Runkel** agreed.

Rep. Lewis asked how the 80% proposal was decided. **Kathy Fabiano** replied the conceptual amendment was that instead of having the state pay 100% of the tuition for state agency and court placed students, that the resident districts would pay 20% and the state would pay 80%.

Rep. Buzzas was under the impression the 80/20 amendment would be replacing the amendment before them now. **Taryn Purdy, Legislative Branch,** explained the amendments further to the committee as agreed to by OPI.

Kathy Fabiano clarified the difference in the two amendments is that with the \$2500 limit, it is the educating district that will

make up the difference. With the 80/20 proposal, the resident district will make up the difference, which will involve more districts. She continued that at times it is difficult to determine the resident district with these children.

Rep. McCann asked about the number of high cost students. **Kathy Fabiano** responded there are about ten but it is a rough estimate.

Rep. McCann asked for a summary of the differences between the two amendments. **Kathy Fabiano** explained them fully.

Rep. Fisher asked why the districts are not being realigned to accommodate this situation. **Kathy Fabiano** stated these are students with physical barriers between their homes and their schools and the districts would need to agree to be realigned. That will not likely happen since the district would lose taxable values in land needed to support other students they are educating.

Chairman Vick stated Sen. Ellis prefers the \$2500 amendment and **Chairman Vick** will carry the amendment in conference committee to insert the language requested by OPI.

Rep. Buzzas spoke on the amendment in support of the sending district paying the tuition and not the district in which they are placed. She was in favor of the 80/20 conceptual amendment.

There was further discussion on the differences, who will carry the amendments, the cost to educate the average student, the fiscal impact or lack of fiscal impact, and which amendment is fairest to the taxpayer at home.

Kathy Fabiano stressed the only students these amendments affect are those state-placed or court-placed outside the districts in which they live.

{Tape : 1; Side : A; Approx. Time Counter : 380}

Kathy Fabiano suggested an alternative of reducing the appropriation in HB 2 by \$125,000 for the payments being made for day treatment costs and leave \$125,000 fiscal note on SB 65. The effect on the general fund is the same. That means the \$2500 cap amendment would not be necessary.

Chairman Vick recommended segregating the part that deals with the \$2500 cap and deal with it separately.

Rep. Peterson closed on the amendments as offered.

{Tape : 1; Side : B; Approx. Time Counter : 20}

Motion/Vote: REP. PETERSON moved that **AMENDMENTS SB 006515 BE CONCURRED IN. Motion carried 10-8 with Buzzas, Callahan, Jayne, Kaufmann, Lindeen, McCann, Pattison, and Tropila voting no. Roll call vote.**

{Tape : 1; Side : B; Approx. Time Counter : 31}

Discussion on the bill as amended:

Chairman Vick offered amendment SB 006503 and read the amendment per the exhibit and explained it.

EXHIBIT(aph75a01)

Kathy Fabiano explained the amendment further that if a high school district student attends in a district other than the resident district, the receiving district has to accept an elementary sibling if so desired even after the high school student has graduated. The parent pays the tuition in this case.

Rep. McCann asked for assurance the amendments dealt with only other family members. **Rep. Vick** stated it is clear in language in the bill.

Rep. Buzzas stated for further clarification that an elementary student would be allowed not to disrupt his education based on the graduation of a sibling.

Rep. Witt asked how many of these situations exist. **Kathy Fabiano** stated this is not tracked since the state is not involved in paying the tuition.

{Tape : 1; Side : B; Approx. Time Counter : 120}

Motion/Vote: REP. VICK moved that **AMENDMENT SB 006503 BE CONCURRED IN. Motion carried unanimously.**

Motion/Vote: REP. PETERSON moved that **SB 65 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

Rep. Peterson will carry the bill.

{Tape : 1; Side : B; Approx. Time Counter : 138}

EXECUTIVE ACTION ON SB 386

Motion: REP. CALLAHAN moved that SB 386 AND AMENDMENT SB 038601 PER THE FOLLOWING EXHIBIT BE CONCURRED IN.

EXHIBIT (aph75a02)

Discussion: This is a delinquency pilot program and concern was expressed by the Department of Corrections on the fiscal note of \$1.6 million over the biennium. It does not allow a participating judicial district to withdraw from the program if they had chosen to participate.

Rep. Pattison asked for clarification that it would reduce the fiscal note to zero. **Taryn Purdy** explained the situation to the committee.

Rep. Callahan closed on the amendment.

{Tape : 1; Side : B; Approx. Time Counter : 200}

Motion/Vote: REP. CALLAHAN moved that AMENDMENT SB 038601 BE CONCURRED IN. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 208}

Motion: REP. CALLAHAN moved that SB 386 BE CONCURRED IN AS AMENDED.

Discussion: **Rep. Fisher** asked for clarification on the budget.

Rep. Callahan stated the money is in the current budget for youth placement but cuts have been taken out of that area. It is not new money out of the general fund.

Rep. Buzzas stated it was a good bill that would allow juveniles to stay close to home and keep costs down.

Rep. Witt spoke against the bill as being unnecessary.

Rep. Kaufmann stated the program will sunset and therefore stop if this bill is not passed. This bill allows the program to continue on a voluntary basis by the judicial districts.

Rep. Callahan closed on the motion.

{Tape : 1; Side : B; Approx. Time Counter : 281}

Motion/Vote: REP. CALLAHAN moved that SB 386 BE CONCURRED IN AS AMENDED. Motion carried 14-4 with Brueggeman, Davies, Vick, and

Witt voting no.

{Tape : 1; Side : B; Approx. Time Counter : 300}

EXECUTIVE ACTION ON SB 394

Motion: REP. FISHER moved that SB 394 BE CONCURRED IN.

Motion: REP. VICK moved AMENDMENT SB 39406.

EXHIBIT(aph75a03)

Discussion: Sen. Debbie Shea, SD 18, Butte, explained the solutions to the concerns about the bill. The interlocal agreement cannot be struck until the enrollment counts are in.

{Tape : 1; Side : B; Approx. Time Counter : 333}

Motion/Vote: REP. VICK moved that AMENDMENT SB 39406 BE CONCURRED IN. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 336}

Motion: REP. FISHER moved that SB 394 BE CONCURRED IN AS AMENDED.

Discussion: Rep. Kaufmann asked about a previous bill including vo-tech schools and tribal schools and wondered if they should be added to this bill since the other one did not pass.

The committee discussed the previous bill introduced by Rep. Carol Juneau which was not passed and the similarities with this bill.

Motion/Vote: REP. FISHER moved that SB 394 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

Rep. Rick Liable will carry Sb 394.

Rep. Tim Callahan will carry SB 386.

{Tape : 1; Side : B; Approx. Time Counter : 385}

EXECUTIVE ACTION ON SB 131

Motion: REP. TROPILA moved that SB 131 BE CONCURRED IN.

Motion: REP. VICK moved AMENDMENT SB 0013101.

EXHIBIT(aph75a04)

Discussion: Rep. Lewis asked for a definition of liquor agencies. **Tony Herbert** replied it is in existing law and in procurement.

{Tape : 1; Side : B; Approx. Time Counter : 435}

Motion/Vote: REP. VICK moved that **AMENDMENT SB 0013101 BE CONCURRED IN**. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 440}

Motion: **Chairman Vick** moved a conceptual amendment as the Department of Justice stated they could go forward without the general fund monies to be appropriated. The language is as follows: "It is the intent of the legislature that no general fund money be appropriated to implement this act."

{Tape : 2; Side : A; Approx. Time Counter : 0}

Discussion: The amendment is not specific to any issue other than it does not appropriate any general fund money.

Motion/Vote: REP. VICK moved that the **CONCEPTUAL AMENDMENT OF NO GENERAL FUND MONEY TO BE APPROPRIATED BE CONCURRED IN**. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 10}

Motion: REP. LINDEEN moved **AMENDMENT SB 0013101 AGH**.

EXHIBIT(aph75a05)

Discussion: Rep. Lindeen explained the amendment as it regards information technology expenses and the policy making functions of the Chief Information Officer.

Questions from the Committee Members and Responses on the Amendment:

Rep. Lewis asked about canceling a contract not originally signed by the canceling party and if it was an issue the committee should address. **Tony Herbert** replied all contracts are entered into today through a bid process with state law taken into consideration.

Rep. Witt asked if the office of information technology established in the Governor's Office would go away if the amendment failed. **Tony Herbert** stated there is no such office now in the Governor's Office and this would be a substitute change to take it out of the Department of Administration.

Rep. Kasten asked if her proposal would require more staff that is already on board in the Department of Administration. **Rep. Lindeen** stated it would transfer staff to the Governor's Office with no additional FTE's.

Rep. Kasten asked if this would work for the Department of Administration.

Tony Herbert answered there has been a long standing debate on how to manage information technology and if there should be an office in the Governor's Office to set policy only with the other operations being left in the Department of Administration (DOA). If this amendment passes, there would be a fiscal impact above the FTE transfers. They would like to see the two activities kept in the same department and are not in favor of the amendment.

Rep. Haines commented he felt the policy making part of the office would be less effective if kept in the same department and should be in the Governor's Office and independent of the DOA.

Barbara Ranf, Director, DOA, stated this issue has been discussed with Governor Martz extensively. SB 131 reflects her decision on keeping it in the DOA.

Rep. Witt spoke against the amendment.

Rep. Buzzas spoke about the frustration with the millions of dollars being spent for technology needs of the state and the sense of a lack of coordination. She felt it should be separated from the DOA.

Rep. Fisher asked if the Governor was in agreement with this change.

Rep. Lindeen stated it is an on-going debate and the Governor does not agree to this at this time. She stated the legislative body makes the policy decisions and the executive branch carries out those decision.

Rep. Fisher felt the Governor's decision should be honored.

Rep. Lewis commented it would work better in the DOA. In the

Governor's Office, it would be at the bottom of the priorities.

Rep. Lindeen closed on the amendment stating it is not a partisan issue.

{Tape : 2; Side : A; Approx. Time Counter : 348}

Motion/Vote: REP. LINDEEN moved that AMENDMENT SB 0013101 BE CONCURRED IN. Motion failed 8-10 with Brueggeman, Clark, Davies, Fisher, Kasten, Lewis, Pattison, Peterson, Vick, and Witt voting no. Roll call vote.

{Tape : 2; Side : A; Approx. Time Counter : 360}

Motion: REP. LINDEEN moved AN AMENDMENT TO STRIKE THE CHIEF INFORMATION OFFICER FROM THE BILL.

Discussion: Rep. Lindeen explained the amendment which states all the authority lies with the department's director as the bill is presently with very few duties for the Chief Information Officer (CIO); therefore, a CIO is an unnecessary position.

Director Ranf stated the CIO in this bill is a very highly accountable position. A full time person would be necessary to coordinate with OPI, the University System, the judicial system and other agencies to make it work. She explained some of the duties of the CIO as additional responsibilities are taken on.

Chairman Vick asked if the CIO would be absorbed within the current budget.

Director Ranf stated there would be movement within information services to make that happen.

{Tape : 2; Side : B; Approx. Time Counter : 20}

Rep. Jayne asked how long the DOA has been aware of this new position being implemented in their department. **Director Ranf** replied it was decided in January in discussions with the Governor to avoid further expenses of creating an entirely separate department. The bill was initiated through the work of an interim committee.

Rep. Lewis spoke in favor of a Chief Information Officer.

Rep. Buzzas asked if the CIO was a new position.

Director Ranf answered it was a restructuring process without increased cost. This position would be funded with proprietary funds as charged to the various agencies. There would be no additional FTE requested in the future; however, proprietary rates could be asked to increase.

{Tape : 2; Side : B; Approx. Time Counter : 82}

Rep. Lindeen withdrew the amendment.

{Tape : 2; Side : B; Approx. Time Counter : 85}

Motion: REP. LINDEEN moved that AMENDMENT SB 13101 BVN BE CONCURRED IN.

{Tape : 2; Side : B; Approx. Time Counter : 95}

Motion: REP. MCCANN moved that SUBSTITUTE AMENDMENT TO STRIKE THE FEDERAL GOVERNMENT REPRESENTATIVE AND ADD THE PSC ON LINE 10 OF SB 131 BE CONCURRED IN.

Discussion: Tony Herbert explained the makeup of the board in order for them to be connected to the various entities.

{Tape : 2; Side : B; Approx. Time Counter : 140}

Rep. McCann closed on the substitute amendment.

Motion/Vote: REP. MCCANN moved that SUBSTITUTE AMENDMENT TO STRIKE THE FEDERAL GOVERNMENT REPRESENTATIVE AND ADD THE PSC ON LINE 10 OF SB 131 BE CONCURRED IN. Motion carried 13-5 with Clark, Davies, Fisher, Kasten, and Lewis voting no. Roll call vote.

{Tape : 2; Side : B; Approx. Time Counter : 165}

Motion: REP. LINDEEN moved that CONCEPTUAL AMENDMENT TO REQUIRE THE CHIEF INFORMATION OFFICER TO SIGN OFF ON ALL CONTRACTS BE CONCURRED IN.

Discussion: Rep. Fisher stated there would be no problem with that since the offices are in the same department.

Rep. Haines agreed with **Rep. Fisher** that authority has to be designated and it should be the contracting officer.

Rep. Jayne asked if there is language in the bill for the CIO to sign contracts.

Rep. Lindeen stated there is no language now but the amendment would provide that.

Rep. Lewis asked what the DOA thought about the amendment. **Tony Herbert** responded current law has those responsibilities defined and included. The amendment does not add to the responsibilities.

Director Ranf added contract law had been considered very extensively in drafting the bill.

Rep. Jayne repeated the question that if the CIO was required to sign the contracts, and there was a breach of contract, could the CIO be sued. **Greg Petesch, Legal Counselor, OBPP**, responded the CIO would be representing the state; therefore, it is the state that would be sued. It would be a safeguard to have the CIO review and sign off on contracts.

{Tape : 2; Side : B; Approx. Time Counter : 375}

Rep. Lindeen closed on the amendment.

Motion/Vote: **REP. LINDEEN** moved that **A CONCEPTUAL AMENDMENT THAT THE CHIEF INFORMATION OFFICE BE REQUIRED TO SIGN OFF ON ALL CONTRACTS BE CONCURRED IN.** Motion carried 15-3 with Clark, Fisher, and Haines voting no.

{Tape : 2; Side : B; Approx. Time Counter : 388}

Motion: **REP. TROPILA** moved that **SB 131 BE CONCURRED IN AS AMENDED.**

Discussion: **Rep. Witt** asked if the Director of the DOA would have the authority and responsibility to fire the CIO.

Director Ranf replied it would be her responsibility.

Chairman Vick commented on the fiscal note, which stated in effect that the Department of Justice has no long-term technology plan which may be true of all state agencies. Passage of this bill is necessary to put a plan in place.

Rep. Lindeen spoke in support of the bill and pointed out the tremendous technology expenditures going on at the state level.

{Tape : 3; Side : A; Approx. Time Counter : 0}

Rep. Kaufmann questioned that there was no cost in the bill and

asked if they were being absorbed by the DOA. **Director Ranf** stated there was no additional costs for the board being set up due to the fact that an existing board was being repealed.

Rep. Tropila closed on the motion.

Motion/Vote: REP. TROPILA moved that **SB 131 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

There was discussion regarding the new fiscal notes required for the various bills to reflect the amendments.

ADJOURNMENT

Adjournment: 5:20 P.M.

REP. STEVE VICK, Chairman

PAULA BROADHURST, Secretary
SANDY WHITAKER, TRANSCRIBER

SV/PB/SW

EXHIBIT (aph75aad)